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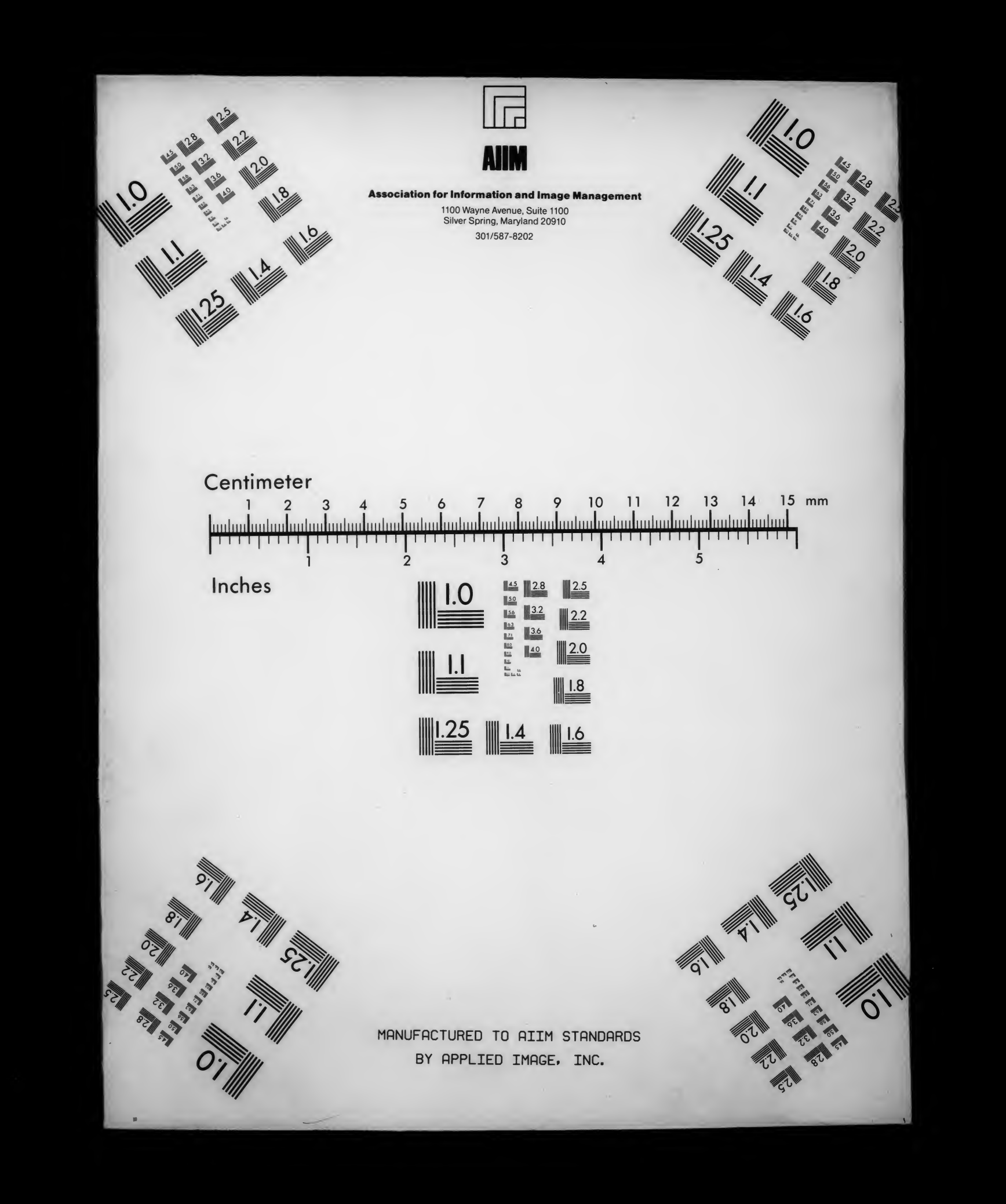
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REPETITA

AN UNWILLING RESTATEMENT OF
VIEWS ON THE SUBJECT OF
THE ROMAN MUNICIPALITIES

By
W E HEITLAND MA

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AT THE UNIVERSITY PRESS
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Curr.

'The true key to the declension of the Roman empire—which is not to be found in all Gibbon's immense work—may be stated in two words;—the *imperial* character overlaying, and finally destroying, the *national* character. Rome under Trajan was an empire without a nation.' ST COLERIDGE, in 1833.

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REPETITA

IT was my hearty and sincere hope that I had done with the subject of the Roman Municipalities when I put out my *Last Words* in February 1928. I hoped that any criticism, if the booklet were noticed at all, would be so usefully corrective that I could easily recant whatever was proved untenable, or should at least be spared the labour of restating what had passed for heretical views. But from English reviewers I have got no such help. My main thesis being rejected by a great authority, I sought in a private letter to learn his opinion on certain special points in dealing with which I felt most liable to error. His kind response led me to further reconsideration of these; but with little change of my own views, which were in fact less extreme than they had appeared to him. On one question of detail I consulted an expert in Roman Law, and gladly make a change in deference to his opinion; but this change is of a formal kind, and does not upset my main argument in the least. It seems therefore my fate to have to restate my case, and make one more endeavour to escape being held guilty of maintaining doctrines that I hoped I had sufficiently disclaimed. In doing this I also take into account a kind critical letter received a little while ago from a distinguished scholar now deceased.

I propose first to deal with the special issues on which the condemnation of my views seems to turn, and to restate under each head the situation as I infer it from the available evidence. I shall do so as briefly as I can. As to the ordinary details of the municipal constitutions there is general agreement; the point in question is the

practical working of the constitutions and how far, if at all, the course of the Imperial history was affected thereby. Let me say at once that my previous conclusions were based solely on the surviving evidence of antiquity, literary, epigraphic, legal. I had not then read Liebenam's excellent *Städteverwaltung*[1], the recent perusal of which has encouraged me greatly. He found the first certain signs of Roman decline in the 'Antonine' period, citing the stray references to municipal phenomena; he traced the effect of growing central control down to the destruction of all local freedom and the deadly stagnation that ensued. Of course others had painted the process of decline in much the same colours; what I specially welcome in his treatise is the frank recognition[2] that 'something rotten' in the state of the municipalities was an earnest fact, a background kept in shadow, only revealed by stray notices, in a scene of external splendour and willing self-complacency. To me, working independently, it seems that by looking behind and before we have material sufficient to justify a further conclusion, that a steady decay of vitality in the municipal units was a cause, rather than a mere symptom, of general decline. And this because the isolative urbanizing system was no longer functionally suited to the needs of the empire. Later expansion by conquest could not refute the judgment of Augustus, that it was time to halt and not overstrain the forces of the state. If Liebenam did not himself express such a conclusion, it must be remembered that his book is a special monograph, not a general inquiry into the causes of the Decline and Fall. But in the last part of the work he certainly comes very near to the views I have expressed.

[1] Leipzig 1900.

[2] Liebenam p 476 foll.

POINTS FROM LIEBENAM

It is worth while to give a brief abstract of the contents of his final review of what he calls *Staat und Stadt*, the relation of Empire and Municipalities. He says[1] 'In almost every part of the Empire times of splendour had been followed by sudden and profound decay in the state of the cities. In the causes of this change we are touching the greatest of world-history problems, the ruin of the ancient world, a problem of which even the most searching inquiry shuns an exhaustive solution.' That is, no end of controversy is in sight. It is not merely that the unspeakable barrenness of the evidence on critical questions is a bar to plain answers; it is rather the impossibility of finding a formula in which to represent 'the sum total of operative forces that make peoples rise and fall.' He then reviews, and dismisses as inadequate, the causes of decline put forth by various writers. Such are—Race-degradation, owing to the extirpation of the best elements of the population and survival of the unfittest; an explanation in which theory has run wild. The direct influence of luxury and evil living among the upper classes; a superficial notion resting on partial and overdrawn details. The invasions of the German barbarians; only successful against a Power already in decay. The relations between the central power (*Staat*) and the cities (*Städte*), the latter having no appropriate status politically though heavily burdened economically; a fact of grave consequence. Caesar cannot be credited with a project for improving the position of the cities. Augustus did nothing effective. Provincial councils could not serve as organs intermediate. That the cities flourished in the following period, was

[1] Liebenam p 504 foll.

due to better economic conditions rather than to deliberate Imperial policy. Central control tended to increase. There were plenty of well-meant regulations called forth by occasional abuses, but no sign of a resolve to attempt a radical reform; hence laws were often ineffective. Hadrian's new Civil Service did nothing to solve this difficulty, and the changes of Diocletian meant simply bureaucratic despotism. Then there is the financial pressure, the burden of excessive imposts, a cause that baffles any attempt at an exact estimate. For we have no real statistics, though of literary and legal evidence there is great abundance, from Christian and Pagan sources alike. A further cause, not to be ignored, is the unfavourable state of agrarian relations; for it was on their landed property that the welfare of the city communities frequently depended. This topic, followed up by consideration of the stages traversed in the passage from peasant owners down to small tenants, records failure, in spite of an advance in technical knowledge.

THE STRUCTURE OF THE EMPIRE

Under each of these heads Liebenam assembles plentiful evidence and discusses it with open mind. But I am not sorry that I ventured to grapple with the subject without his aid. I feel more confident that I have worked on sound lines, when I find my conclusions so powerfully confirmed. It seems to me quite clear that the decay of municipal vigour was to him, as it now is to me, a most fatal symptom of the Decline and Fall. I go a step further. I see in the Roman municipal system a piece of political machinery that had once been well adapted to the needs of an expanding empire but had outlived its usefulness. The static conditions contemplated by Augustus might

be interrupted for a while by the ambitions of this or that Emperor, but the permanent tendency was toward security and defence. Of the earlier Imperial policy it has been well said[1] that 'it was the first conscientious attempt to establish a state, other than a clan-city, on a peace footing.' For Oriental monarchies did not attempt to incorporate and amalgamate their subject peoples. My thesis, at present heretical, is that the principal means employed by Rome to this end—the municipal system—was ill calculated to serve its purpose. The need now was to animate the vast mass, to invigorate the parts and combine them in a whole self-conscious and cooperative, in short to produce an organic union. Had such a result been attainable, no power then on earth could have shaken the colossus. I imagine that it was never possible; but what did happen was that, as generations went by, the Roman machine became more mechanical, while the barbarians were learning to form larger units and to profit by the lessons of Roman military skill. How the long story ended, we know. The ruin of the empire came from within. The several maladies to which writers have attributed the dissolution of the imperial body do not severally suffice to explain it. So Liebenam thought; so does Rostovtzeff. I humbly assent. But my firm belief is that the body was not sound, and that the most characteristic part of its structure favoured the development of whatever evil tendencies lurked within. Cities founded or remodelled on Roman lines, with Roman constitutions and Roman social traditions, reproducing on a smaller scale the Roman phenomena[2] of urban life, were ideal centres for the local growth of the very evils that had

[1] F W Bussell, *The Roman Empire* I 84.

[2] Cf Liebenam p 37, Bussell I 170, Dessau *Kaiserzeit* II 152.

marred the great career of Rome. They were everywhere. No grave imperial responsibilities imposed on their governing bodies a moral obligation to set public duty above their personal interests. And there is no reason to suppose that they did not do as Roman magnates had done before them. The epigraphic record, critically examined, justifies no suggestion of the kind; it is just what one would expect, looking from my point of view. No doubt many municipalities were in a healthy state, at least in the first two centuries; that many of them had a good reserve of spare strength, able to bear without utter exhaustion the strains of the next period, is to me[1] very doubtful.

THE MUNICIPALITIES AND IMPERIAL LEGISLATION

In speaking of the relation of the central power to the several municipalities I assumed the existence of a general[2] statute, a *lex* under which, supplemented by occasional rescripts, the powers of the local governments were limited. This I conjectured to be a statute of later date than the *lex Iulia municipalis* of Caesar, superseding that measure. My main point was that there must have been some general regulative principles observed by the authorities in Rome, and that some such normal scheme is indicated by the opinions of jurists given in the last book of the Digest, taken as a whole. This view is now challenged, and the existence of any general Imperial regulative statute is denied. For, whenever a *lex municipalis* is mentioned, it is either the *lex* of a given city that

[1] Much the same conclusion is reached in Bussell I 123.

[2] That a *Provincial* charter-law sometimes contained rules bearing on *municipal* matters, is well known. See Hardy's notes on Plin *epp* X 79. But this point is not of importance here.

is meant, or the general body of municipal charters, which followed a common form while differing in details. Let me at once withdraw the word 'statute,' ill chosen as I admit it to be. I lay no stress on the existence of a formal voluminous Act. And Professor Buckland kindly informs me that he disbelieves in the existence of any such measure later than the time of Augustus. But he believes in the continued existence of the *lex Iulia*, corrected and supplemented by rescripts etc. This is the 'better view,' not necessarily final. Accepting this opinion, I need not discuss the several texts on which I sought it. I have only to offer my own conclusion. That copies[1] of municipal charters were preserved in the central offices at Rome, may be taken as certain. That these, though not identical in detail, followed a common form, is pretty clear from the surviving remains of some of them. But, when a jurist informs us of a very important restriction which is not preserved in any of the inscribed fragments, it is (see Dig L 8 § 2[1]) perhaps bold to assume that it formed part of the common form. It would end by becoming common form, if it first appeared as a rescript dealing with the case of a particular city but recognized (Dig XLVII 12 § 3[5]) as of general application. It seems to me that the process continually in action at the central bureau was this: the original charters were filed for reference, and with them either severally or in common the corrective *rescripta epistulae* etc, of which those that enacted any rule of principle would be applicable to all the cities. These records[2] (and the original *lex Iulia* ?) were the working

[1] Even documents authoritative on details of boundaries, fixed by the local *forma* or *aes* at the time of allotment, were preserved in copies at Rome. See Lachmann's *Feldmesser* I pp 154, 202.

[2] See the long note on municipal charters in Liebenam p 471.

material up to date, ever expanding, on which decisions were based and jurists gave opinions. They would form a sort of special code to which officials could turn for precedents when engaged in dealing with some issue raised by a local question. Failing such precedent, a new act of legislation would follow, designed to cover the need revealed by the new case. This act would then be recorded in its turn, and would for the moment complete the body of law at the disposal of the Department. On these grounds I hold fast to the existence of a corpus of normal municipal regulations; not an elaborate *lex rogata* of the ancient model—the legislation of the Empire ran on other lines—but a growing aggregate of supreme decisions, in short a product of the same method as that followed in the later Codes.

LEGISLATION ANTECEDENT OR CONSEQUENT

I have argued that legislation directly prohibitive of certain acts implies the previous commission of the said acts; and I have applied this argument to the case of legislation (or executive action) limiting the freedom of municipal authorities. This view is countenanced by the utterances[1] attributed by Livy to old Cato in 195 BC and to Thrasea in 62 AD by Tacitus. It would seem therefore not to be un-Roman, though doubtless not original. But two most competent and kindly critics have called me to account for bad logic in taking this line. I venture to say a few words on behalf of my innocent conclusion. First I would point out that, in suggesting that legislation was provoked by abuses, I have never suggested that those abuses were widely prevalent at the moment of legislation. I did not 'find black sheep everywhere.' But I do

[1] Liv xxxiv 4 § 8, Tac *ann* xv 20 § 2.

hold that the central power would hardly have intervened to check corruption, had the evil been trivial and exceptional. Let us suppose that a rescript was issued dealing with a single case, but valid in all; this does not prove that there were not even then other cities to which it might have been expressly applied. Its general validity sufficed. Now the particular prohibition[1] cited by me is significant. It had been evaded since its enactment, and it was on the illegality of such evasion—not on the law itself—that the opinion of Ulpian was pronounced. Surely my argument on this point was stated with cautious moderation, and is not materially weakened by attributing to me extravagant views that I have never held. That the normal constitution of the municipalities was very liable[2] to breed abuses, and was as a system ill adapted to the needs of the empire, is my contention. That the *municipia* were in the second century for the most part corrupt and on the road to ruin, is too absurd to be maintained. That their general condition was not so healthy as to react vigorously against misfortune, is a proposition fully consistent with the historical sequel.

While the critic above referred to finds me too sanguine, in fact expecting too much of poor human nature and judging the city governments by an utopian standard, another correspondent thinks it cynical to assume that laws only come into being as remedies for existing offences. Do not lawgivers sometimes look ahead and forbid acts that have not yet been committed? Well, perhaps they may have done so now and then. But, I think, mainly under the lead of some suggestive

[1] Dig L 8 § 2[1], cited *Iterum* p 24.

[2] See Bussell I 159 for considerations justifying interference of Emperors.

experience[1] sharpening their foresight abnormally. And, to confine ourselves to the case of Rome, was it the Roman practice to legislate in anticipation against possible offences? I think not. Surely the usual defect of Roman legislation was to be not too early but too late.

RUSTICS—CITIES AND THE CENTRAL POWER

It is granted that throughout antiquity in most places the rustic population was exploited, and often oppressed, by the more fortunate townsfolk. That their condition was worse in city territories than on Imperial domain lands, is challenged as lacking evidence. That it was worsened by bad municipal administration, is not admitted, at least so long as the prosperity of the cities was not undermined by unfavourable circumstances, and especially by excessive taxation of various kinds. In short, the fault lay not with the municipal system, but with the general outlook of the ruling classes. Again, the superior position of the townsfolk, the defects of urban civilization generally, the impossibility of the existence of an effective public opinion, are admitted to be weak points of the Roman Empire; but are regarded as weaknesses of the Imperial system, not of the municipal system.

On this I have to remark

(1) I have not said, and do not say, that *coloni* on municipal territories were worse off than those on the Domains. What I did say (*Iterum* p 37) was that the latter class could, if they appealed against oppression, get prompt relief by direct action of the central department in Rome, that is by order of the Emperor; but that in a

[1] See *Last Words* p 26.

case of similar bearing on a city territory intervention would probably involve local reforms of consequence, a policy which the Imperial government would often be in no hurry to undertake.

(2) As to the distribution of blame between the Imperial system and the municipal system, I reply that the latter is a part of the former, and a very important part too. I have never been guilty of the folly of treating the municipal system as being in itself the prime cause of the Decline and Fall. My contention is that, being isolative[1], it produced and kept in being a general condition under which a living cooperation of the parts and the central power was impossible. Whether assailed by enemies from without, or intermittently tested within by famines pestilences or earthquakes, the measures of defence or relief were the business of a central government operating as the Imperial mistress of subject communities counted by thousands. From these she required passive obedience in matters beyond the limited range of local interests, and it was not her policy to encourage them in joint action. The Imperial union was mechanical, not organic, and its power of recovery from disasters and strains was limited by this condition. The foe might be beaten back with loss, and distressed areas might be relieved by Imperial charity. But the losses and the local sufferings were not really made good—not permanently —nor could a genuine convalescence, a complete restoration of former health and strength, have been attained without vigorous and patriotic efforts on the part of the municipal communities. In modern times we should expect local authorities to work together and the leading men not to shrink from self-sacrifice for the

[1] For a vivid picture of this condition see Bussell 1 pp 170–1.

common good. We are not to suppose that examples of such conduct were lacking in the Roman municipalities. But we should not forget[1] that local jealousies made neighbour cities unlikely to help each other, while the wealthier burgesses of each city in trouble would be weakened by losses at the very time when there was need of their generosity.

THE CITIES FROM WITHIN

I repeat, if we are considering the empire in (say) the time of Marcus, when its vital forces were grievously impaired by internal calamities, it is not irrelevant to inquire why the municipalities, if they were really so prosperous, did not rise to the occasion and lead the way to a general recovery. Now the one fact of which we have undoubted and copious record is the lavish expenditure, communal and individual, on the promotion of splendour comfort and luxury, that prevailed in the cities generally. But, so far as I can gather from inscriptions and from the references of the jurists, this expenditure very seldom, if ever, was such as to offer any prospect of a direct economic return on the capital so invested. Few public works brought rents or fees into the city chest, perhaps not enough to cover the costs of upkeep or (as in the case of baths) of normal operation. Public shows[2] were simply a wasteful extravagance. Doles and Feasts, and all

[1] Liebenam p 144 well refers to the laws of Cod Th xv 1 compelling under certain conditions the lesser cities to contribute towards the expenses of the greater on public works. This in time of extreme pressure at end of fourth century. Compare the exactions of Nero for rebuilding Rome in 64 AD. Tac *ann* xv 45, Suet *Ner* 38.

[2] It is curious that Tiberius, who was averse from these entertainments, was also backward in extending the municipal system. See Suet *Tib* 31, 37. Dessau *Röm Kaiserzeit* II 34–5, 90.

charitable benefactions, found their reward solely in winning popularity and goodwill, a truth to which our historians are not blind. But the burgess of means, unless he was utterly emancipated from Roman traditions, surely looked for some appreciable return for his generosity. What could this be, other than recognition of his claims to local office and power, in short to a share in the direction of municipal affairs? Thus he attained a position analogous to what had once been that of a Roman noble in Republican Rome, member of a ruling clique. If the sphere in which he operated was small, his influence was probably less crossed and hampered by party intrigues than that of a senator in the older Rome, and much less cramped now by the dominating presence of the Emperor. So long as no grave scandal compelled the busy overlord to intervene, local magnates had ample opportunities[1] of administering their little *res publica* in their own selfish interest. That all or most of them were so un-Roman as to withstand the temptation, is more than I can ask a student of Roman history to believe. The burden of proof lies heavy on whoever affirms such a proposition.

Unless I have given a grossly distorted view of the situation, it would appear that the municipal system[2]

[1] Cf Liebenam p 299.

[2] There is good reason to think that the municipalities in Italy were as a rule in a wholesome state socially. See Furneaux on Tac *ann* III 55, XVI 5. In Pliny's letters Patavium and Brixia are praised. This does not contradict what I have said here. The rivalry of cities (eg in amphitheatres) is well noted by Dessau *Kaiserzeit* II 331. The interesting case of a check on undesirable extravagance, Plin *epp* IV 22, was in Gaul. That the cities outside Italy were more inclined to extravagance is probable. The Roman nucleus at the time of their establishment was often of a military character, *veterani* who were used to shows and bloodshed.

tended to establish local oligarchies composed of the wealthier burgesses. This was a Roman policy from early times. If the ruling class administered the city affairs in their own personal interest, this too was according to Roman precedent. If their public benefactions were largely inspired by the wish to secure themselves in power, they were doing what old Romans had done in Rome. Now the epigraphic record is exactly what we should expect under such conditions. No pains were spared to keep before the public eye the facts of their liberalities. If a city erected a tablet in praise of a benefactor's act, it was often the case that he paid the cost of it himself, and recorded this munificence also. So important were these monumental appeals to public gratitude and favour, that they had to be subjected to legal regulations, and jurists were called upon to define the rights and wrongs of *inscriptio nominis*. These phenomena surely point to a social atmosphere of self-regarding ambition as the normal state of things, but do not constrain us to believe that there were no instances of unselfish[1] philanthropy. They might suggest that, if ever the role of benefactor should cease to be a sure road to profitable power, most men of means would be less eager to hold public office. And it so happens that we have a stray record of such reluctance even in Trajan's time, before the dark days of excessive imposts and general misery.

I have protested, and I still protest, against the expressed or implied argument that the absence of epigraphic record unfavourable to a belief in municipal wellbeing is sufficient evidence that in fact all was well. Where will you find the city rulers, ancient or modern, that set up monumental evidence of their own blunders

[1] Such as Pliny and some of his friends.

or misdeeds? If such misdeeds did occur, it would be the duty and interest of the central Imperial power to deal with them, either by orders simply deciding a special case or by edicts of general application. Now it is in the comments of the jurists and the laws of the Codes that we find plain evidence of Imperial interference. And where else would you look for this conclusive proof that all had not been well? I am pleased to find that this conclusion had already been reached by Liebenam[1] from evidence almost exactly the same as I used independently. I note also that Gibbon himself, whose picture of the prosperity and bliss of the Antonine age has been so often quoted without reserve, was not without misgivings as to the soundness of what appeared untainted felicity. At the end of his second chapter he warns his readers of the moral and intellectual decline, stagnation and levelling, that he detects already operative. He says that the long peace, and the uniform government of the Romans, 'introduced a slow and secret poison into the vitals of the empire.' This conclusion he drives home, adding 'It was scarcely possible that the eyes of contemporaries should discover in the public felicity the latent causes of decay and corruption.' If these latent causes were not the symptoms of internal unsoundness, are we to find them simply in the influence of external meddling? I answer, No. And I believe I am in agreement with the real view of Gibbon.

ROMAN TRADITION AND MUNICIPAL LIFE

In histories of Rome attention is generally directed to the neglect of great public works in the last period of the Republic, and the pressure exerted by Augustus to engage

[1] Liebenam p 476 foll.

private liberality in removing this reproach. Wealth that had been wasted in the party struggles of politics was to be better employed in making the city a worthy capital of a great empire. So a beginning was made with the Rome of splendour, while a peaceful substitute was found for the corrupt and turbulent strife of rival ambitions. Henceforth in Rome itself political corruption as an open road to power no longer existed, votes having no value and violence no place in the new scheme of things.

But among the Imperial developments of Augustus one of the most important and characteristic was the extension of municipal institutions outside Italy, a policy begun by Julius Caesar. The constitutions of these cities were of a Roman model, with magistrates senate and common burgesses. But in these minor communities voting-power had a certain local value, and its importance was duly recognized in the city charters. Care was taken that due formalities should be observed in the Assemblies, and the pauper mob (always liable to form in slaveholding societies) was excluded from the active franchise by the requirement of a property-qualification. It is well known that in course of time the local senates became the actual governing bodies of the cities, but under the earlier Empire the local Assemblies seem to have been generally in function. The ordinary result was that a set of local magnates were practically the rulers of each city and able to keep official power in the hands of their own circle. This state of things was an extension to the whole empire of the system of local self-government that had become normal in the Italian municipalities under the Republic. The ruling class could enjoy continuous tenure of power on condition of keeping the common burgesses (and the mob) contented and amused. Baths aqueducts porticoes

amphitheatres were contributions to comfort and luxury; doles and shows intermittently relieved indigence and boredom. It is natural to ask, but was not exactly the same process going on in Rome itself? I think the answer to this question is No. Under the Empire things were different. Any benefactions in the form of buildings were given mainly, if not wholly, to please the Emperor; that is, when they were not provided by the Emperor himself. And an Emperor's bounties were not bestowed in order to win him power; that is, when they were bestowed on civilians. He only wanted to content and amuse the mob; without a mob it was not possible to make the imperial capital impressive to provincial and foreign visitors. So one need imposed another at the centre of empire. But in provincial cities there was no such need. Municipal magnates were not encouraged to interest themselves in imperial matters, and the same motives that had formerly influenced Roman nobles had a free field for operation in the narrow sphere of local politics. Neglect in one direction could be offset by activity in another. Thus a city's walls might be left to fall into disrepair, while money was lavished on magnificent buildings, and wasted on entertainments mostly unedifying and often bloody.

A knowledge of the sequel leads me to this gloomy view of municipal conditions. But to a Roman observer in the first two centuries of the Empire things would appear differently. Outer splendour in a setting of presumed security would seem no more than an assertion of greatness justified by facts. The rhetoric of Aristides reads to us as the voice of a pride that goes before a fall; to his audience it may well have seemed a fit glorification of a destiny defiant and everlasting. Even after the

disasters and upheavals of the two following centuries *urbs aeterna* is still found as a synonym of Rome. Such is the vitality of notions comfortable to those whom disillusionment would pain. We must not expect to find a chorus of farsighted critics exposing the unrealities of the imperial fabric. Who would dare to propound such opinions, when he had no prospect of support or protection in a society where men cowered before the agents of supreme power, all interested in the continuance of a system under which they themselves had risen? We can only point to isolated facts stated or implied in records[1] accidentally surviving, shewing that uneconomic and unwise expenditure on the part of municipal authorities did now and then attract the attention of the central government and incur its censure. The case of Vienna in Gaul[2] should be read in Pliny's characteristic letter. A demoralizing show had been suppressed by a virtuous local magistrate. His decision was appealed against as exceeding his powers. The emperor's *consilium* (this is in Trajan's time) rejected the appeal. Pliny, who was present, records with moral gusto the abolition of the noxious festival and is only sorry that the same sort of reform cannot be applied elsewhere. His correspondence with Trajan supplies some other matter of the same kind in connexion with Bithynian cities. Perhaps the most evil and significant misapplication of funds is to be detected in the diversion of moneys, needed for repair[3] of town walls, to new edifices of magnificence and luxury.

[1] For laws regulating the administration of municipal property see Cod Iust XI 30–33.

[2] Pliny *epp* IV 22.

[3] Or even for repair of existing buildings instead of erecting new. Rescript of Pius cited in Dig L 10 § 7.

FORTIFICATION—NEGLECTED AND REVIVED

The old-fashioned municipality, whatever its official title or origin, had been a centre of Roman power and penetration, a nucleus of Roman influence in its own neighbourhood, a most effective means used in the consolidation of Roman Italy. While this process was going on, the town had to be fortified, that it might serve as a refuge for its rustic population, and a base for Roman armies, in time of war. There were then no standing armies, and the burgesses, urban or rustic, were potential soldiers liable to be called to arms. The standing army of Augustus, and the provision for defence of imperial frontiers, made Italy secure from invasion by foreign foes, and for some two centuries this feeling of security led to a growing neglect of town walls. Indeed Aristides boasts that in the golden days of Pius Rome needs no wall, being safely defended by the frontier posts. In the civil war of 69 AD we get a glimpse of the way in which the enceinte was sometimes made useless by the erection of buildings higher than the wall itself[1] and just outside it. Then comes a peaceful period in which the town walls were probably falling into disrepair in many places. At all events when the times of trial began, and invasion was no idle menace, hasty restorations and repairs were carried out, and are still discernible by experts. The consummation of this process is marked by the failure of Maximin before the walls of Aquileia, and the fortification of Rome by Aurelian and Probus. I need not enlarge on this topic, fully dealt with[2] by Nissen and Liebenam. Suffice it that in the later Empire nervous anxiety on the subject of

[1] Tacitus *hist* III 30.

[2] Nissen *Ital Landeskunde* II 44, Liebenam p 139.

fortification is evident[1] in the decree of Diocletian, and that a great scheme of reconstruction was at least approved for execution in the time of Honorius. But even then a complicated set of regulations were deemed necessary if the funds for the purpose were to be extracted from the cities without driving them into utter ruin.

That we should expect a chronological record of these phenomena to be handed down to us from antiquity, would be absurd. Facts of local extravagance or neglect, occurring piecemeal, were not likely to attract lasting attention. And their significance reveals itself only to later observers who are in a position to get a general view looking back over long periods of time. A modern reader may ask why the ruling class in this or that city did not rouse itself to arrest the decline of efficiency and so to make their local unit a worthy contribution to common imperial strength. But he must not forget that these local rulers had neither imperial power nor imperial responsibility. Their administration naturally tended to follow the line of least resistance; the local population of all grades, addicted to comforts and pleasures, took no interest in defensive works the need for which seemed to have passed away for ever. Nor could the retired military men, an important class in many cities, be relied on to be active supporters of a 'safety first' policy. All we know of the veterans suggests that their normal ambition[2] was to spend their later years in ease and comfort, respected and influential. And their lives during service had accustomed them to leave all initiative to the central authority

[1] Cod Iust XI 42, VIII 11 §§ 11, 12.

[2] That some of them in the fourth century were actively mischievous is true, and is openly recognized in Cod Iust XII 46 § 3 (law 353 AD).

from whom they took their orders. My belief is that the standing army of Augustus, by the working of its scheme of yearly retirements, tended to increase the element hostile to reform in many municipalities both in Italy and the Provinces. Here let me state again exactly in what way I believe the municipal system to have proved itself a source of weakness in the Roman Empire.

MUNICIPAL STRUCTURE NOT A FEDERAL UNION

Goldwin Smith[1] in one of his ingenious arguments drew a distinction between a federation proper and a nation with a federal structure. He pointed out that since the adoption of its constitution (1787) the American Commonwealth has been a case of the latter type. The distinction is surely a sound one, as the history of the United States clearly shews. Let me adapt his terminology to the case of Rome. The Roman Empire was an Empire with a municipal structure. The municipalities had real (though locally limited) powers of self-government, which Provinces had not; and the story of the loss of these powers is a most significant part of the Empire's history. The growing domination of the central power over the separate parts may invite a superficial comparison with the case of America. But the Union of the States has made a Nation[2], its development being vital; the Empire neither found nor made a Nation, its agglomeration being mechanical, effected and assured by force. In a vital union

[1] See the Selection from G S Correspondence (London 1913) page 310.

[2] The best account of the process by which the Union was achieved known to me is in Mr F S Oliver's *Alexander Hamilton*, ed 1907.

of willing constituent members the original impulse toward combination must be powerful. That in a civilized people it is likely to continue long in function, and even to survive dreadful strains, we have reason to believe. In a lifeless aggregate of parts that cannot be called constituent there was no human impulse driving a city to combine with its neighbours in mutual accommodation and concessions for the common good of the great whole of which they all were parts. For its protection the *civitas* had (or thought it had) Rome's sufficient guarantee. Of imperial responsibility it had nothing more than the duty of obeying the regulations imposed by Rome. The one general motive, very strong in some districts, that was normally in function was the determination to claim privileges and imperial favours not inferior to those accorded to their neighbours. In various degrees of activity or slackness this jealous competition prevailed, and it bore no resemblance to the hearty cooperation which the actual condition of the great empire demanded even in periods of peace. Thus, I repeat, the municipal structure, in times when the idea of Representation was not even a reformer's dream, was essentially a political weakness. Let us assume that of the thousands of municipal units the great majority were at a given moment in a healthy state, and that only a few corrupt and failing cities were menaced with ruin under the pressure of invasion or plague or earthquake or famine. Would the soundness of the many compensate and relieve the sickness of the few? I can find nothing to justify such an opinion, unless we are content to say that an emperor's bounty to the distressed would be drawn from the taxation of the more fortunate. But Imperial relief usually if not always took the form of remission of taxes due from

the suffering communities. Any relation between the afflicted and the immune would be very indirect, and in any case compulsory, due solely to the action of the central power. It would indicate no vital cohesive force exerted by 'Roman' will, but the arbitrary working of a governmental machine. And now, what was the main defect of the municipal system? It was not that this or that city or cities were rotten units, but that the normal city, however splendid, was imperially a stagnant unit, lacking the vital energy to be more than a passive sharer in the empire's fate. What was weakening the empire was not so much the loss from decay of failing cities as the lack of buoyant support from those apparently prosperous. The weakness was not an attack of acute disease for which a specific remedy might be found, but a slow and subtle malady for which contemporary statesmen with their limited experience and outlook could devise only palliatives.

THE PANEGYRICS

After discussing the Roman Municipal system and its place in the history of the Decline and Fall, I turned to certain panegyrics on Rome and her great imperial career. The result of my examination of these utterances was a conclusion that they supply no trustworthy evidence of inner soundness in the empire. In other words, they are superficial, however sincere the enthusiasm of their authors may be. That the fabric of the empire was structurally weak, made up of passive parts in isolation connected with, and ruled by, a central power; that this central power, a makeshift accepted as a welcome relief from a period of exhausting civil wars, was equipped with no means of self-development peaceful and rational; that

it looked from Rome with Roman eyes, narrow-minded even when purely well-meaning, cosmopolitan without enlightenment or any sign of originality, though faced with problems affecting the whole civilized world; that its mental and moral inadequacy was leading it down to an impotent and shameful end—how could the patriotic broadcasters of Roman glory be expected to pessimize the situation of the hour with criticisms and forebodings such as these?

The specimens with which I dealt range in time from the reign of Vespasian to that of Honorius. It is to be noted that in the earlier ones stress is exclusively laid on the benefits conferred on so great a number of peoples over so vast an area. If the civilizing of the West and the protection of the hellenized East are the distinctive features of Roman rule, the praise is true so far as it goes. But it hardly brings out the fact that *defence* was the boon guaranteed by Rome to all, and that the responsibility for self-help did not rest on the several cities; their idle part was to exploit in luxury and ease the security of the Roman Peace. Once let this security be impaired, and the apparent prosperity of these isolated units availed nothing for their own protection. Of common action in the cause of the empire they were incapable. They could be taxed to meet imperial needs; but, with exception of a few active centres of commerce and manufactures, their economic vitality was small. To most of them the returns from landed property[1] were their chief resource; but the conditions of local politics caused much of this income to be dissipated in sheer waste. The first touch of adversity would be ruinous to the weaker cities, and start the stronger on a downward course. Now, that the great

[1] So too Liebenam p 513.

fabric was doomed to collapse, because the whole and the parts could not effectively cooperate and were indeed weakening each other, was the truth for centuries. But who could discern this, or would venture to confess it if discerned? The optimists, sure of a favourable hearing, could talk themselves into a belief that all was well, and a certain tone of boasting was in accord with Roman traditions. Some nameless singer claimed *cive Romano per orbem nemo vivit rectius*, and we need not go beyond Great Britain to find parallels. But the best illustration is the case of Cicero, well aware of the untrustworthiness of the Italian municipalities, and yet advising dependence on their support in the conflict with Antony.

To devise a form of words that shall do exact justice to the emotional value of the panegyrists (Aristides in particular) is I fear beyond my skill. But I do not think that my careful expressions fairly deserve the censure they have received. I withdraw nothing. The blindness of men to the significance of contemporary facts is no new phenomenon; it exists, and is doubtless perverting the judgment of millions at the present hour. In the mental and moral atmosphere of decaying Rome, where the soothsayer and the pretender to supernatural powers kept going such elements of religion as the philosophers had not destroyed, any tendency to self-delusion could thrive in congenial environment. That the utterances of Claudian and Rutilius are voices of self-delusion, is a charitable judgment, perhaps a sufficient one. Only the Christians, such as Prudentius, have a working theory of the meaning of the past as justified by the present. But, in order to appreciate the Pagan attitude, it is well to note the strange story[1]

[1] Vopiscus *vita* Prob 20–23. See also the bunch of omens recorded *vita* Tac 17.

in which Probus is represented as looking forward to a coming period of peace and justice, a golden age in which armies would be no more needed, when the Roman state (*res publica*) would be in the unchallenged possession of all things, and the world be under jurisdiction of Romans administering Roman laws. The authority for this may not be of a very high order, but it can hardly be dismissed as a wilful invention. The author regards this essentially patriotic dream of Probus as one of the things resented by the soldiery, who murdered him. And in painful indignation he upbraids his gods—what can the Roman state have done to justify your depriving her of such an emperor? And the poor old gods can only have pleaded that they were unable to withstand the Roman fate, that in short the dream of Probus was not practical politics. Yet, astounding though it seems, we find Rutilius nearly 150 years later than Probus calling on Rome to arise and rule as of yore.

Finally, I maintain that all the lofty talk and enthusiasm of the panegyrists of Rome is only valuable as evidence that, in certain circles, the conditions created by the Empire were most acceptable. There was no acceptable alternative. Whether the mass of rustics felt an equal enthusiasm for the system,I am not sure. The woeful picture of Salvian may be overdrawn; but the sequel shews us the Gaulish peasant under barbarian overlords, and there is no suggestion that the evils of the countryside were remediable on Roman lines.

THE LAMENTATION OF SALVIAN

Salvian *de gubernatione dei* VII 1 refers to the current reproach that the contrast between Pagan Rome conquering and imperial, and Christian Romans conquered and enslaved, is a proof that God is not concerned with the affairs of mankind. To him it seems a more serious consideration that the chastisement divinely inflicted on us has not led us to amend our ways. The surgery of knife and fire goes on, but the patients are no better—nay, are even the worse for the treatment. Hence all over the world we are being made away with (*finimur*) in slaughter. But there is something further, which is characteristic of these times. We contrive to be *miseri* and *luxuriosi* at once. Granted, that for the sinner there can be no true happiness; still, is it not monstrous in a world where there is neither peace nor security, such as the Roman world is now, to keep alive nothing but the vices congenial to long periods of security and peace? Is not the wanton pauper a contemptible figure? Yet such is the condition of the whole Roman world. Like a wretch in desperation, whose thoughts are on the race-course when he is on the eve of becoming a slave, or who laughs in the present prospect of death, *nos et in metu captivitatis ludimus et positi in mortis timore ridemus. Sardonicis quodammodo herbis omnem Romanum populum putes esse saturatum: moritur et ridet*...etc. Then in chapter 2 he goes on to illustrate his indictment by the case of the Aquitani[1] and Novempopuli in the choicest part of Gaul. God had endowed these favoured people with exceptional blessings: they have requited his bounty by being preeminent in evil living.

These views, put forth about the middle of the fifth century, however overdrawn, are worth comparing with the complacency or self-delusion of Claudian and Rutilius about fifty years before, and with the piously conventional version of Roman history given by Prudentius.

[1] Cf Ammianus XV 11 §§ 1–5.

Here I leave my case, restated with a verbosity for which it would be vain to apologize. I should have been well content to spare myself this trouble, but the conviction has grown upon me that the view for which I contend is worthy of serious attention. This may be a symptom of senile self-delusion; if so, I cannot help it. That my conclusions call for a considerable change of attitude on the part of those who write of the Roman Empire, has been pointed out to me by a distinguished correspondent. Yes, they do. But in that fact I see no valid reason for suppressing what, in default of convincing refutation, I believe to be the truth.

Note. The earlier booklets referred to are *The Roman Fate* 1922, *Iterum* 1925, *Last Words* 1928.

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